

Request for Review

Marlene H. Dortch, Secretary
Federal Communications Commission
Office of the Secretary
445 12th Street, SW
Washington, DC 20554

Re: Name: **Calhoun School**
 BEN: **10036**
 Funding Year: **2012**
 Application: **859258**
 USAC Decision: **02/14/2013**

April 4, 2013

Dear Sirs.

This is a letter for a request of Review regarding the above captioned USAC Notification regarding the following FRNs:

FRN#: **2339259 – Broadview Networks Holdings, Inc - NOT FUNDED-** DR1: A contract for a new service was signed prior to the expiration of the required 28-day waiting period computed from the date of the posting of the FCC Form 470 to USAC's web site which violates program rules. <><><><><> DR2: Applicant has not provided sufficient documentation needed to determine the eligibility of the following item: cost associated with the eligible service being requested.

FRN#: **2339360- Verizon Business Global – NOT FUNDED -** A contract for a new service was signed prior to the expiration of the required 28-day waiting period computed from the date of the posting of the FCC Form 470 to USACs web site which violates program rules.

FRN#: **2344522- MASSCOMM, INC– NOT FUNDED -** A contract for a new service was signed prior to the expiration of the required 28-day waiting period computed from the date of the posting of the FCC Form 470 to USACs web site which violates program rules.

Request for Review Calhoun School BEN 10036
CC Docket No. 02-6 CC Docket 96-45

FRN#: **2344707- Verizon Business Global – NOT FUNDED** - A contract for a new service was signed prior to the expiration of the required 28-day waiting period computed from the date of the posting of the FCC Form 470 to USACs web site which violates program rules.

FRN#: **2344804- Cogent Communications, Inc.– NOT FUNDED** - A contract for a new service was signed prior to the expiration of the required 28-day waiting period computed from the date of the posting of the FCC Form 470 to USACs web site which violates program rules.

Reasons for Appeal:

For FRN# : **2339259** – The school signed the contract with Broadview on 1/11/2012 prior to the posting of the Form 470 on 2/15/2012. The contract with Broadview was a contract for a preexisting service for which the school has had for over 10 years. The contract was a renewal of existing services with an existing service provider. The vendor was awarded the contract on 3/14/12. Under program rules as specified by John Noran from USAC a preexisting signed contract can be considered a standing bid for a subsequent Form 470. The allowable contract date can be the contract award date. The applicant committed an M & C error in listing the actual signing date of the pre existing contract. The contract attached (Attachment 01) will corroborate the above as well as provide sufficient documentation as to the eligibility and the cost associated with the requested services.

For FRN#: **2339360** – The school signed the contract with Verizon prior to the posting of the Form 470. The contract with Verizon was a contract for a preexisting service for which the school has had for over 8 years. The contract was a renewal of existing services with an existing service provider. The vendor was awarded the contract on 3/14/12, the allowable contract date. The applicant committed an M & C error in listing the actual signing date of the pre existing contract.

For FRN#: **2344522** – The school signed the contract with Masscomm on 10/3/2011 prior to the posting of the Form 470 on 2/15/2012. These services were preexisting services in place prior to applying for the 2012 funding year. The vendor was awarded the contract for the 2012 funding year on 3/14/12, the allowable contract date. The applicant committed an M & C error in listing the actual signing date of the pre existing contract. The contract attached (Attachment 02) will corroborate the above.

For FRN#: **2344707** – The school signed the contract with Verizon prior to the posting of the Form 470. The contract with Verizon was a contract for a preexisting service for which the school has had for over 8 years. The contract was a renewal of existing services with an existing service provider. The vendor was awarded the contract for the 2012 funding year on 3/14/12, the allowable contract date. The applicant committed an M & C error in listing the actual signing date of the pre existing contract.

For FRN#: **2344804** – The school signed the contract with Cogent on 6/17/2011 prior to the posting of the Form 470 on 2/15/2012. These services were preexisting services in place prior to

Request for Review Calhoun School BEN 10036
CC Docket No. 02-6 CC Docket 96-45

applying for the 2012 funding year. The vendor was awarded the contract for the 2012 funding year on 3/14/12, the allowable contract date. The applicant committed an M & C error in listing the actual signing date of the pre existing contract. The contract attached (Attachment 03) will corroborate the above.

The FCC has already ruled in:

**Before the
Federal Communications Commission
Washington, DC 20554**

In the Matter of)	
)	
Request for Review of the)	
Decision of the)	
Universal Service Administrator by)	
)	
Bishop Perry Middle School)	File Nos. SLD-487170, <i>et al.</i>
New Orleans, LA, <i>et al.</i>)	
)	
Schools and Libraries Universal Service)	CC Docket No. 02-6
Support Mechanism)	

The rest of the petitioners assert a waiver is appropriate for one of two reasons: **either someone on the applicants' staff made a mistake** or had a family emergency that prevented them from filing on time or the delay in the filing or receipt of the application was due to circumstances out of the applicants' control. Specifically, in the first group, some of these appeals involve applicants whose staff members inadvertently failed to file the application forms in a timely manner.¹ Another group

¹ Request for Waiver of Assabet Valley Regional Vocational School District; Request for Review of Barnwell County School District 45; Request for Review of Bath County School District; Request Waiver of Beavertown Community Library; Request for Review of Brown County School Corporation; Request for Review of Caruthers Unified School District; Request for Review of Central Catholic High School; Application for Review of Chawanakee Joint Elementary School District; Request for Review of Clearwater Memorial Library; Request for Waiver of Clinton County Board of Education; Request for Review of Coahoma County Public Schools; Requests for Review of Consorcio de Escuelas y Bibliotecas; Request for Review and Waiver of CPC Behavioral Healthcare; Request for Review of Delta County School District; Request for Review of Fairfax School District R3; Request for Review of Germantown School District; Request for Review of Hawaii State Public Library; Petitioner for Reconsideration of High Bridge Board of Education; Request for Waiver of Holmes District School Board; Request for Review of Hubbard Independent School District; Request for Waiver of Indian Oasis Baboquivari District 40; Request for Waiver of Island Trees Public Library; Request for Waiver of Jefferson School District; Request for Review of Los Alamitos Unified School District; Request for Review of Madera Unified School District; Request for Review of Malone Independent School District; Request for Waiver of McClure Community Library; Request for Waiver of Middleburg Community Library; Request for Waiver of Minnesota Transition School; Request for Waiver of Minnewaska Area Schools; Request for Review of Montfort & Allie B. Jones Memorial Library; Request for Waiver of Mount Ayr Community School District; Request for Waiver of Mount Saint John School; Request for Waiver of Mt. Carroll Township Public Library; Request for Review of Our Lady of Refuge; Request for Waiver of Pinon Dormitory; Request for Waiver of Queen of Apostles Catholic School; Request for Waiver of Richmond Public Library; Request for Review of Rylander Memorial School; Request for Waiver of Selinsgrove Community

Request for Review Calhoun School BEN 10036
CC Docket No. 02-6 CC Docket 96-45

of petitioners state that they were unable to comply with the filing deadline due to staff illness or relatives of staff members who were ill.² Other petitioners claim that the rules and instructions for filing an FCC...

And in

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In the Matter of)	
)	
Request for Review of the)	
Decision of the)	
Universal Service Administrator by)	
)	
Bishop Perry Middle School)	File Nos. SLD-487170, <i>et al.</i>
New Orleans, LA, <i>et al.</i>)	
)	
Schools and Libraries Universal Service)	CC Docket No. 02-6
Support Mechanism)	

ORDER

Adopted: May 2, 2006

Released: May 19, 2006

By the Commission: Commissioner Copps issuing a separate statement.

While the Bureau has enforced existing filing deadlines for the E-rate program,³ we find that good cause exists to waive the procedural deadline in these cases. We find that given that the

Library; Petitioner for Reconsideration of Siskiyou County Library; Request for Review of Southeast Delco School District; Request for Review of Southeastern Libraries Cooperating; Request for Review of St. Clement's Regional Catholic School; Request for Review of St. Elizabeth Interparochial School; Request for Waiver of St. Francis of Assisi School; Request for Waiver of SuperNet Consortium; Request for Waiver of Tiverton School Department; Request for Waiver Wabash Valley Educational Center; Request for Review of Wallington Public Schools; Request for Waiver of Walnut Community School District; Request for Waiver of Washington Local School District; Request for Waiver of Westside Holistic Family Services; Request for Review of Whitfield County School District; Request for Waiver of Wilkinson County School District; Request for Review of Wilson Memorial Library.

² Request for Waiver of Augusta County Library; Request for Review of Bonnie Brae Educational Center School; Request for Review of Garvey School District; Request for Waiver of Gaston County School District; Request for Waiver Millennium Community School; Request for Waiver of Northwest Institute for Contemporary Learning, Inc.; Request for Waiver of St. Mary's School; Petition for Reconsideration of Neches Independent School District; Request for Waiver of Unadilla Community School.

³ See, e.g., *North Dakota Order*, 17 FCC Rcd at 7389, para. 13; *Wilmington Public Schools Order*, 17 FCC Rcd at 12071, paras.7-8; *South Barber Order*, 16 FCC Rcd at 18437-38, para. 7.

Request for Review Calhoun School BEN 10036
CC Docket No. 02-6 CC Docket 96-45

violation at issue is procedural, not substantive, we find that a complete rejection of each of these applications is not warranted, especially given that the error in these cases is not the fault of the applicants. **Notably, at this time, there is no evidence of waste, fraud or abuse, misuse of funds or a failure to adhere to core program requirements revealed by the record in these matters. Furthermore, we find that denial of funding in these cases would inflict undue hardship on the applicants. In these cases, the applicants have demonstrated that rigid compliance with USAC's application procedures does not further the purposes of section 254(h) or serve the public interest.⁴ We therefore grant these appeals and remand them to USAC for further processing consistent with this Order.**

And in

Naperville Community Unit
School District 203
Naperville, Illinois
Federal-State Joint Board on Universal
Service
Changes to the Board of Directors of the
National Exchange Carriers Association, Inc.
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(
File No. SLD-203343
CC Docket No. 96-45

CC Docket No. 97-21
ORDER

Adopted: February 22, 2001 Released: February 27, 2001

II. DISCUSSION

9. **At the outset, we emphasize that our primary objective is to ensure that schools and libraries benefit from the schools and libraries universal service support mechanism as contemplated by the statute.** For purposes of considering this Request for Review, this means we must balance the need to minimize administrative costs, while expediting fair and efficient review of applications. With that objective in mind, we consider the circumstances surrounding SLD's return of Naperville's FCC Form 471 for failure to meet SLD's minimum processing standards.

⁴See 47 U.S.C. § 254(h).

Request for Review Calhoun School BEN 10036
CC Docket No. 02-6 CC Docket 96-45

We therefore submit that the Calhoun School has met all contract requirements and that all FRNS should be FUNDED or else the school will experience undue hardship that goes counter to the goals of the E-rate program.

Sincerely,



Daniel Hochman

Consultant

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LOA Attached